

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20077

RICHARD ALLAN ZORN,

Defendant.

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**ORDER SETTING BRIEFING SCHEDULE**

Seeking credit for eight months he spent in state custody awaiting sentencing for state offenses, Defendant Richard Zorn asked the federal district court for an eight-month reduction of his federal sentence. (See Dec. 21, 2010, Sentencing Hr'g Tr. 45, Dkt. # 36.) The district court concluded that no authority empowered the court to allow Defendant to serve a federal sentence and an anticipated state sentence concurrently. (*Id.*) The Sixth Circuit affirmed, 461 F. App'x. 493 (2012), but the Supreme Court vacated, 133 S.Ct. 149 (2012), and remanded "for further consideration in light of *Setser v. United States*," which holds that a district judge may run a federal sentence either consecutively or concurrently with an anticipated state sentence, *Setser*, 132 S.Ct. 1463 (2012).

The action returns to the district court. The Sixth Circuit instructs the court "to exercise its discretion [to decide] whether Zorn's federal sentence should run consecutive to, or concurrent with, his state-court sentence." 461 F. App'x. 493. Accordingly,

IT IS ORDERED that each party shall submit a sentencing memorandum; Zorn by **January 7, 2013**, and the Government by **January 21, 2013**. Each memorandum shall state whether the party desires a hearing and, if so, why.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: December 11, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 11, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522